

HOWARD DOWNING  
ATTORNEY AT LAW  
109 SOUTH FIRST STREET  
NICHOLASVILLE, KENTUCKY 40356  
PHONE 885-4619

May 26, 2006

RECEIVED

MAY 26 2006

PUBLIC SERVICE  
COMMISSION

Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, KY 40602-0615

Case No. 2006-00714  
RE: PETITION OF BLUE GRASS ENERGY  
COOPERATIVE CORPORATION

Dear Ms. O'Donnell:

Enclosed please find an original and 10 copies of the petition of Blue Grass Energy requesting designation as the electric service supplier for the new Wal-mart store (number 591) in Cynthiana.

Please file and assign a case number for the petition. Advise what other information is needed.

Yours truly,

  
Howard Downing, Attorney  
BLUE GRASS ENERGY COOPERATIVE CORP.

RECEIVED

MAY 26 2006

PUBLIC SERVICE COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF: )  
PETITION OF BLUE GRASS ENERGY )  
COOPERATIVE CORPORATION TO BE )  
DESIGNATED AS THE RETAIL ELECTRIC )  
SERVICE SUPPLIER FOR THE NEW )  
WAL-MART STORE NUMBER 591 )  
LOCATED IN CYNTHIANA, KENTUCKY )

NO. 2006-00714

Petitioner, Blue Grass Energy Cooperative Corporation, (herein "Blue Grass") makes application to the Kentucky Public Service Commission (807 KAR 5:001) as follows:

1. The full name and post office address of the applicant is: Blue Grass Energy Cooperative Corporation, P.O. Box 990, 1201 Lexington Road, Nicholasville, Kentucky 40340.
2. Applicant is engaged in electric distribution business in the counties of Anderson, Bourbon, Bracken, Estill, Fayette, Franklin, Garrard, Grant, Harrison, Henry, Jackson, Jessamine, Madison, Mercer, Nelson, Nicholas, Pendleton, Robertson, Scott, Shelby, Spencer, Woodford, and Washington counties of Kentucky by and under applicable federal and state laws.
3. Applicant is a consolidated cooperative corporation whose consolidation was approved in Case No. 2001-246 before the Kentucky Public Service Commission. The consolidation consisted of Blue Grass Energy Cooperative Corporation and Harrison County Rural Electric Cooperative Corporation.
4. The Articles of Consolidation of Blue Grass are filed in Case No. 2001-246 of the Kentucky Public Service Commission and incorporated by reference herein..
5. Blue Grass is a "retail electric supplier" engaged in furnishing of retail electric service

as defined in KRS 278.010 (4).

6. Blue Grass has the exclusive right to furnish retail electric service within its duly certified territory which includes a portion of Harrison County, Kentucky pursuant to KRS 278.017 and 278.018.

7. Kentucky Utilities Company (herein, "KU") (c/o E. On U.S. LLC, Post Office Box 32010, 220 West Main Street, Louisville, Kentucky 40232) is also a retail electric supplier with certified territory located partially in Harrison County, Kentucky adjacent to the territory of Blue Grass.

8. Wal-Mart Stores, Inc. (herein "Wal-Mart") (2001 S.E. 10<sup>th</sup> Street, Bentonville, Arkansas 72716-0550) is preparing to locate and construct a new store within the two (2) adjacent certified territories of Blue Grass and KU as shown by attached plat designated as Exhibit A. [NOTE: The location of the territorial boundary line is believed to be accurate although it differs from KU Plat filed in Case No. 2006-00170]

9. The new Wal-Mart Store 591 will be a new electric-consuming facility as defined in KRS 278.010 (8).

10. KRS 278.018 (1) provides, in part, as follows:

In the event that a new electric-consuming facility should locate in two (2) or more adjacent certified territories, the commission shall determine which retail electric supplier shall serve said facility based on criteria in KRS 278.017 (3).

11. The criteria in KRS 278.017 (3) are as follows:

(a) The proximity of existing distribution lines to such certified territory.

(b) Which supplier was first furnishing retail electric service, and the age of existing facilities in the area.

(c) The adequacy and dependability of existing distribution lines to provide dependable, high quality retail electric service at reasonable costs.

(d) The elimination and prevention of duplication of electric lines and facilities supplying such territory. In its determination of such protest, the commission hearing shall be de novo, and neither supplier shall bear the burden of proof.

12. Blue Grass is the proper retail electric supplier to serve the new Wal-Mart Store when all the criteria of KRS 278.017 (3) are considered, as follows:

a. THE PROXIMITY OF EXISTING DISTRIBUTION LINES TO SUCH CERTIFIED TERRITORY.

The proposed location of the new Wal-Mart Store 591 is located within approximately 40 feet of existing three-phase double circuit overhead line of Blue Grass which is immediately available to provide all the electric service needs of the new Wal-Mart Store. The existing distribution line of Blue Grass is believed to be closer than KU to the point of delivery of electric service.

b. WHICH SUPPLIER WAS FIRST FURNISHING RETAIL ELECTRIC SERVICE AND THE AGE OF THE EXISTING FACILITIES IN THE AREA.

Blue Grass's existing line location was originally built in 1938 as a two-phase line.

In 1945, Blue Grass (through its predecessor, Harrison County Rural Electric Cooperative

Corporation) installed electric service to a tenant house on the farm that contains the proposed new Wal-Mart Store 591. In 1946 Blue Grass (as Harrison RECC) installed electric service to two (2) additional tenant houses on the farm that contains the proposed new Wal-Mart Store 591.

The line was converted to a three-phase in the 1940's. In 1971 the line was converted to a double circuit three-phase line, which is its current configuration.

c. THE ADEQUACY AND DEPENDABILITY OF EXISTING DISTRIBUTION LINES TO PROVIDE DEPENDABLE, HIGH QUALITY RETAIL ELECTRIC SERVICE AT REASONABLE COST.

The new Wal-Mart Store 591 will be located within approximately .75 miles of Blue Grass's Cynthiana substation on New Lair Road. This line would be more than capable of providing a dependable high quality retail electric service and would have limited line exposure due to its close proximity to the substation. The cost to construct service to Wal-Mart would be equal to or less than the cost to extend service from KU facilities depending on the exact requirements of Wal-Mart. There would be no charge to Wal-Mart to connect to the electric service of Blue Grass.

Blue Grass has a full service district office located in Cynthiana (within approximately 2 ½ miles of the new Wal-Mart Store 591) that would be capable of responding to any problems in a short period of time.

d. THE ELIMINATION AND PREVENTION OF DUPLICATION OF ELECTRIC LINES AND FACILITIES SUPPLYING SUCH TERRITORY.

Blue Grass can provide electric service to the new Wal-Mart Store 591 without duplication of lines and facilities. The new electric service to the new Wal-Mart Store 591 will require a new electric service line of approximately 40-250 feet (depending on transformer location) which will not duplicate or parallel any existing line or electric facilities in this area.

13. KU filed a petition (now pending before this Commission in Case No. 2006-00170) requesting authority to serve the new Wal-Mart Store 591 in Cynthiana. Blue Grass denies assertions of KU in its petition that the new Wal-Mart Store 591 is “an expansion of existing operations” or, alternatively, that KU should be entitled to serve the new Wal-Mart Store 591 as a new electric consuming facility.

14. Blue Grass contends it is the proper and superior electric service provider for the new Wal-Mart Store 591 based on the criteria in KRS 278.017(3).

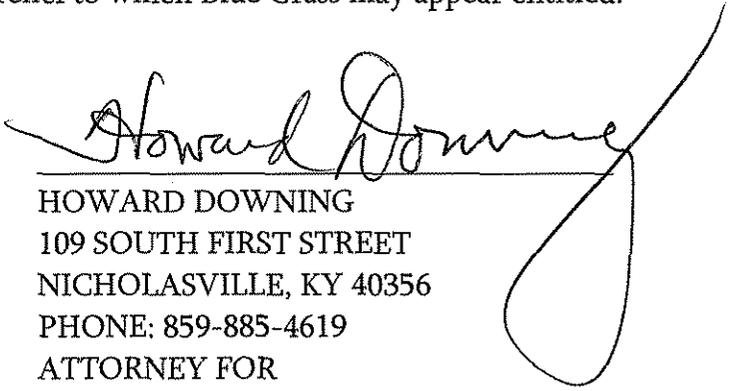
15. Blue Grass has a superior ability to provide dependable, high quality retail electric service at reasonable costs, including closer access to equipment and personnel to provide full response and electric service to the new Wal-Mart Store 591.

WHEREFORE, Blue Grass respectfully requests the following:

1. That the Public Service Commission conduct such investigation and hearings necessary to determine all issues raised in this petition; and
2. That the Public Service Commission determine and order as follows:

- a. The new Wal-Mart Store 591 in Cynthiana is a new electric-consuming facility; and
  - b. Blue Grass is the proper retail electric supplier for the new Wal-Mart Store 591 in Cynthiana, pursuant to KRS 278.018 and KRS 278.017(3); and
  - c. The existing territorial boundary be amended to include all of the new Wal-Mart Store 591 within the certified territory of Blue Grass; and
3. That Case No. 2006-00170 (Petition of KU) be consolidated with this case for expediting the resolution of all matters set forth in both petitions; and
  4. That an informal conference with commission staff be arranged to provide opportunity for settlement prior to, or during the course of hearing in this case; and
  5. That the Commission grant all other relief to which Blue Grass may appear entitled.

Dated: May 25, 2006.

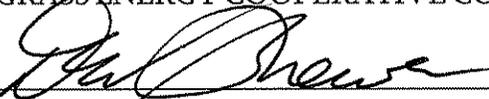
  
HOWARD DOWNING  
109 SOUTH FIRST STREET  
NICHOLASVILLE, KY 40356  
PHONE: 859-885-4619  
ATTORNEY FOR  
BLUE GRASS ENERGY  
COOPERATIVE CORPORATION

The undersigned, Daniel W. Brewer, as President/CEO of Blue Grass Energy Cooperative Corporation says that he has read the above petition and believes the statements contained therein are true to the best of his knowledge and belief.

Dated: May 25, 2006.

BLUE GRASS ENERGY COOPERATIVE CORPORATION

BY:

  
DANIEL W. BREWER, PRESIDENT/CEO

Subscribed and sworn to before me by Daniel W. Brewer as President/CEO of Blue Grass Energy Cooperative Corporation on behalf of said corporation this 25<sup>th</sup> day of May, 2006.

  
NOTARY PUBLIC, KENTUCKY STATE AT LARGE  
My Commission Expires: April 1, 2009.

I certify that a true copy of the above petition was mailed this 26<sup>th</sup> day of May, 2006 to the following:

Ms. Allyson K. Sturgeon  
Ms. Elizabeth L. Cocanougher  
220 West Main Street  
Louisville, KY 40202  
Attorneys for  
Kentucky Utilities Company

Mr. J. Gregory Cornett  
Stoll, Keenon, Ogden PLLC  
Suite 1700  
500 West Jefferson Street  
Louisville, KY 40202  
Attorney for  
Kentucky Utilities Company

Mr. John P. Colgan  
Wal-Mart Stores, Inc.  
2001 SE 10<sup>th</sup> Street  
Bentonville, AR 72716-0550

  
HOWARD DOWNING, ATTORNEY FOR  
BLUE GRASS ENERGY COOPERATIVE CORPORATION

Case No. 2006-00214  
BLUE GRASS

EXHIBIT A

